

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Houston DIVISION

United States Courts
Southern District of Texas
FILED

NOV 07 2017

David J. Bradley, Clerk of Court

James Milton, 1334819
Plaintiff's Name and ID Number

TDCJ Estelle unit
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

v.

D. Ballard, et al.
Defendant's Name and Address

Please see attached
Defendant's Name and Address

Statement of claim
Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ___ YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

- II. PLACE OF PRESENT CONFINEMENT: TDCT Estelle Unit
- III. EXHAUSTION OF GRIEVANCE PROCEDURES:
- Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO
- Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: James Milton, 264 FM 3478,
Huntsville, TX. 77320-3322.

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: D. Ballard, Chief of Classification, Estelle
Unit, 264 FM 3478, Huntsville, TX. 77320-3322

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Please see attachment.

Defendant #2: J. Njeri, Sgt., Estelle Unit, 264 FM 3478,
Huntsville, TX. 77320-3322

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Please see attachment

Defendant #3: ___ Dillerbeck (Sp.?), prison guard, Es-
telle Unit, 264 FM 3478, Huntsville, TX. 77320-3322

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Please see attachment.

Defendant #4: N. Ta, Primary Health care Provider, Estelle
Unit, 264 FM 3478, Huntsville, TX. 77320-3322

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Please see attachment.

Defendant #5: E. Tulye, Estelle Unit Regional Medical Fa-
cility Director, 264 FM 3478, Huntsville, TX. 77320-3322

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Please see attachment.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Please see attachment.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Please see attachment.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

B. List all TDCJ/CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ #s 732776/1303690/1338419

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? ____ YES ____ NO

- C. Has any court ever warned or notified you that sanctions could be imposed? YES ☒ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): _____
 2. Case number: _____
 3. Approximate date warning was issued: _____

Executed on: 11-2-2017
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am, under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 2 day of November, 2017.
(Day) (month) (year)

(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

Offender Name: James Milton TDCJ # 1334819
 Unit: Estelle Housing Assignment: K1105B
 Unit where incident occurred: William J. Estelle Unit

OFFICE USE ONLY

Grievance #: 2016057751
 UGI Recd Date: 11 Jan. 2016
 HQ Recd Date: Jan. 14 2016
 Date Due: 02-20
 Grievance Code: 200, 299
 Investigator ID#: _____
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

This serious matter has been brought to the administration's attention on several occasions prior to the injury sustained, & if not for the neglect, or better yet, the "deliberate indifference towards grievant & his serious medical needs," the incident complained of would not have occurred.

Exhaustion of administrative remedies have been accomplished.

Offender Signature: _____

Date: 1-5-16 Tuesday

Grievance Response: _____

Signature Authority: _____

Date: _____

Returned because: *Resubmit this form when corrections are made.

- ☒ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: D. Hurley PS III
Region I offender
Grievance

Jan 15 2016**OFFICE USE ONLY**

Initial Submission

CGO Initials: DHDate UGI Recd: 01-11-16Date CGO Recd: 01-14-16(check one) ☒ Screened ☐ Improperly SubmittedComments: 19 daysDate Returned to Offender: 1-20-162nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Date: 11-2-2017

David Bradley
U. S. District Clerk
U. S. District Court
Houston Division
PO Box 61010
Houston, TX. 77208

United States Courts
Southern District of Texas
FILED

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David J. Bradley, Clerk of Court

RE: Civil Rights Violation com-
plaint Pursuant to 42 USC
§§ 1983, 12131, Motion for
Appointment of Counsel,
per Texas State Prisoner
James Milton, TDCJ #1334819

Dear David Bradley, Clerk:

Please find the enclosed civil
rights violation complaint & mo-
tion for appointment of counsel.
Please file these documents
with the appropriate court at
your earliest convenience.

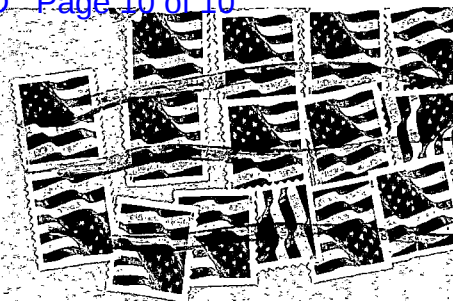
Your consideration concerning this
matter will be greatly appreciated.

Yours truly,

James Milton
TDCJ # 1334819
Estelle Unit
264 FM 3478
Huntsville, TX
77320-3322

ck file

James Milton
TDCJ #1334819
Estelle Unit
264 FM 3478
Huntsville, TX
77320-3322



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David J. Bradley, Clerk of Court

To: David Bradley
U.S. District Clerk
U.S. District Court
Houston Division
PO Box 61010
Houston, TX 77208